IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.S.RADHAKRISHNAN
&
THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

MONDAY, THE 18TH JUNE 2007 / 28TH JYAISHTA 1929

WP(C).No. 31406 of 2006(L)

PETITIONER:

BATHERY MAHA GANAPATHY TEMPLE,
REPRESENTED BY THE PRESIDENT,
BATHERY MAHA GANAPATHY KSHETHRA SAMITHY,
SULTAN BATHERY, WAYANAD DISTRICT.

BY ADV. SRI.M.P.ASHOK KUMAR

RESPONDENTS:
---

1. THE STATE OF KERALA,
REPRESENTED BY THE CHIEF SECRETARY,
SECRETARIAT, THIRUVANANTHAPURAM.

2. THE COMMISSIONER,
H.R.& C.E. (ADMINISTRATION), KOZHIKODE.

ADDL. R3. T. SANTHOSH KUMAR, S/o P.K. GOVINDAN
SANTHOSH BHAVAN, P.O. TIRUNELLI TEMPLE
WAYANAD
(IMPLEADED AS PER ORDER DATED 07.02.3007 IN I.A.1500/2007)

R3 BY ADV. SRI.MOHAN C.MENON
R1 BY GOVT PLEADER SRI K SANDESH RAJ

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 18/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.S. RADHAKRISHNAN & ANTONY DOMINIC, JJ.

W.P.C. No 31406 of 2006

Dated: 18th June 2007

JUDGMENT

Radhaklrishnan, J.

Writ petition has been preferred seeking a writ of certiorari to quash Ext. P8 order dated 18.11.2006 passed by the Government on a revision petition filed by the petitioner. Revision petition was directed to be disposed of by this court in W.P.C. No 20710 of 2006 filed by Gopalankutty Nair and Santhosh Kumar. Government noticed that the revision petition has become infructuous and the stay granted was vacated. The Government gave a direction to the Commissioner, Hindu Religious and Charitable Endowment Department, Kozhikode to take urgent steps to take over the administration of the temple by a duly appointed executive officer.

2. Ext. P4 was the revision petition filed by the petitioner against Ext. P3 notification issued by the Commissioner, H.R. & C.E inviting applications for appointment to the post of Trustees to the

temple. Ext.P3 notification was issued as early as on 10.06.1986. On a petition filed by the petitioner Government had granted stay of Ext. P3 on 24.12.1988 and the stay order continued all these years. On a representation filed by the additional third respondent, Government took up the revision and disposed of it, vacating the stay, but a direction was given to the Commissioner to take over management and administration of the temple.

3. Writ petitioner has only questioned the validity of Ext P3 before the Government. Government was therefore concerned only with the question whether the Commissioner was justified in issuing Ext P3 or not. In an infructuous revision petition, Government have considered various other qustions projected by the additional third respondent through his representation dated 28.06.2006. Facts mentioned in the representation dated 28.06.2006 are not relevant to examine the validity or otherwise of Ext P3 notification issued by the Commissioner. The Government, in our view, was not justified in giving a positive direction to the Commissioner to take over the administration of the temple in a revision petition filed by the petitioner. Even otherwise we are of the view that the Commissioner cannot proceed with Ext.P3 notification at this

distance of time. In such circumstances, we are inclined to set aside Ext P3, so also Ext P8 order passed by the Government. Writ petition is allowed as above.

SD/-

K.S. RADHAKRISHNAN
Judge

SD/-

ANTONY DOMINIC
Judge

en/

[TRUE COPY]

APPENDIX

Petitioner's exhibits:

Ext.P1 Photocopy of registration certificate
Ext.P2 - Photocopy of Deed dated 10.11.1972
Ext.P3 - Photocopy of notice dated 10.06.1985
Ext.P4 - Photocopy of petition dated 30.06.1986 filed by the petitioner before the Government
Ext.P5 - Photocopy of the notice dated 27.09.2005
Ext.P6 - Photocopy of the counter affidavit dated 11.10.2006
Ext.P7 - Photocopy of the order dated 21.08.1951
Ext.P8 - Photocopy of the order dated 18.11.2006 issued by the first respondent.

Respondent's exhibits:
Ext.R1(a) - Report of HR & CE Inspector
Ext.R1(b) - Report of P. Bhaskaran
Ext.R1(c) - Representation of employees of Mahaganapati temple Sulthan Bathery
Ext.R1(d) - The list of temples published by HR & CE

[true copy]